

Order
dated
4/24/90

10
pages

Letter dated
4/24/90

1 page



COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF ENVIRONMENTAL RESOURCES

TSP
BUREAU OF WASTE MANAGEMENT
Harrisburg Regional Office
One Ararat Boulevard
Harrisburg, Pennsylvania 17110
(717) 657-4588

April 26, 1990

CERTIFIED MAIL NO. P 479 890 928

Raymark Industries, Inc.
75 East Main Street
Stratford, CT 06497

Re: Unlawful Disposal of Solid and
Hazardous Waste
Violations of the Solid Waste Laws
and Regulations
I.D. No. PAD003015328
Manheim Borough, Lancaster County

Gentlemen:

Attached is an Administrative Order issued by the Department of Environmental Resources.

Sincerely,

Richard J. Morgan

Richard J. Morgan
Compliance Specialist
Harrisburg Regional Office

RJM:tlb

Attachments

Commonwealth of Pennsylvania
Department of Environmental Resources

In the Matter of:

RAYMARK INDUSTRIES, INC.
75 EAST MAIN STREET
STRATFORD, CT 06497

:

:

RAYMARK CORPORATION
ONE CORPORATE DRIVE
SHELTON, CT 06484

:

:

RAYMARK FRICTION COMPANY
123 EAST STIEGEL ST.
MANHEIM, PA 17545

:

:

Unlawful Disposal of Solid and
Hazardous Waste
Violations of Solid Waste Laws
and Regulations
Manheim Facility
PAD003015328
Manheim Borough, Lancaster County

RAYTECH CORPORATION
ONE CORPORATE DRIVE
SUITE 512
SHELTON, CT 06484

:

:

ORDER

Now, this 26th day of April, 1990, the Department of
Environmental Resources (hereinafter "Department") has determined that:

A. The Department is the executive agency of the Commonwealth charged
with the duty and authority to administer and enforce the Solid Waste Management
Act, Act of July 7, 1980, P.L. 380, 33 P.S. §6018.101 et seq., ("SWMA"); its
predecessor ("Predecessor SWMA"), the Act of July 21, 1968, P.L. 788 No. 241,
35 P.S. §6018.6001 to 6018.6017; The Clean Streams Law, Act of June 22, 1937,
P.L. 1987, as amended, 33 P.S. §691.1 et seq., ("CSL"); The Hazardous Sites
Cleanup Act ("HSCA"), the Act of October 18, 1988, P.L. 108, 35 P.S. §6020.101
et seq., Section 1917-A of the Administrative Code of 1929, Act of April 9, 1929,
P.L. 177, as amended, 71 P.S. §310-17 ("Administrative Code"), and the Rules and
Regulations promulgated under each.

The Raymark Companies

B. Raymark Industries, Inc., ("Raymark Industries") is a Connecticut
corporation with a mailing address of 75 East Main Street, Stratford, CT 06497.

C. Raymark Corporation is a Connecticut corporation with a mailing address of One Corporate Drive, Shelton, CT 06484.

D. Raytech Corporation ("Raytech") is a Delaware corporation with a mailing address of One Corporate Drive, Suite 512, Shelton, CT 06484.

E. Raymark Friction Company ("Raymark Friction") has a mailing address of 123 East Stiegel Street, Manheim, PA 17545.

F. Raymark Industries Inc. owned and operated a manufacturing facility and related landfill at 123 East Stiegel Street, Manheim, PA (hereinafter "the Manheim facility").

G. Raymark Industries was formerly known as Raybestos-Manhattan and/or R.M. Friction Products and is currently a wholly-owned subsidiary of Raymark Corporation.

H. Raymark Friction is currently engaged in manufacturing operations at the Manheim facility.

The Manheim Landfill

I. Raymark Industries placed waste products generated in their manufacturing operations at the Manheim facility in a landfill at the Manheim facility (hereinafter "the Manheim landfill.") The Manheim landfill covers approximately ten acres and contains approximately 186,000 cubic yards of waste.

J. The wastes contained in the landfill include, but are not limited to asbestos, lead, phenols, formaldehyde, barium, sulfate, copper, fiberglass, heptane, toluene, motor oils and graphite.

K. Wastes contained in the Manheim landfill are in contact with groundwater at the Manheim facility.

L. The Manheim landfill is in the 100-year flood plain of Chickies Creek, a creek located near the Manheim facility.

M. Some of the waste material from the Manheim landfill has leached into groundwater at the Manheim landfill.

Denial of Raymark Industries' Permit Application

N. On December 1, 1983, Raymark Industries submitted to the Department Raymark Industries' "Part B" application for a permit for operation of the Manheim landfill.

O. The Department reviewed Raymark Industries' Part B application and, in a letter dated June 1, 1984, notified Raymark Industries that its application was incomplete.

P. In a letter dated August 1, 1986, the Department formally denied Raymark Industries' Part B application and advised Raymark Industries that all waste disposal into the Manheim landfill must cease immediately and that Raymark Industries must submit to the Department within 15 days a plan for closure and for post-closure care of the landfill.

Q. Raymark Industries ceased placement of waste into the Manheim landfill on or about March 13, 1987.

Raymark Industries' 1987 Closure Plan

R. On April 24, 1987, Raymark Industries' consulting engineers, BCM Eastern, Inc., submitted to the Department on Raymark Industries' behalf a closure plan for the Manheim landfill ("the 1987 Closure Plan").

S. The 1987 Closure Plan was inadequate in that it failed to provide for closure of the Manheim landfill in a manner that 1) would minimize the need for further maintenance of the landfill and 2) would control, minimize, or eliminate, to the extent necessary to prevent threats to human health and the environment, post-closure escape of hazardous waste, hazardous waste constituents, leachate, contaminated rainfall, or waste decomposition products

to the groundwater.

T. On September 23, 1987, the Department sent Raymark Industries a letter advising Raymark Industries that the 1987 closure plan "failed to meet the intent of Chapter 75.264(o)(2)(i) and (ii), that is minimizing maintenance and controlling the potential migration of hazardous waste." The September 23 letter set forth, in 4 pages and in 16 separate numbered paragraphs, the Department's comments and questions regarding the closure plan and the basis for its conclusion that the plan failed to meet the intent or the requirements of §75.264(o).

U. To date, Raymark Industries has not responded to the majority of the comments and questions in the September 23, 1987 letter.

The Bags of Baghouse Dust

V. After Raymark Industries ceased placing waste from its manufacturing operations into the Manheim landfill, Raymark Industries continued to generate waste products from its manufacturing operations, including dust collected in bags in the "baghouse" at the Manheim facility (hereinafter "the baghouse dust"). Raymark Friction likewise generated baghouse dust from its manufacturing operations at the Manheim facility. The baghouse dust contains asbestos and lead. Since March 1987, Raymark Industries and Raymark Friction have placed bags of baghouse dust on the surface of the ground at the Manheim facility. As of January 1989, Raymark Industries and Raymark Friction had accumulated approximately 3,000 bags of baghouse dust at the Manheim facility.

W. As of July 1989, Raymark Industries and Raymark Friction had accumulated approximately 4,500 bags of baghouse dust at the Manheim facility.

X. As of April 1990, Raymark Industries and/or Raymark Friction had commenced removal of bags of baghouse dust from the Manheim facility.

Bonding and Insurance

Y. The 1987 Closure Plan stated that the minimum cost to close the Manheim facility would be \$709,000.

Z. As of July 1989, Raymark Industries had not provided to the Department any bond or other financial assurance as required by 25 Pa. Code §75.311.

AA. As of July, 1989 Raymark Industries had not submitted to the Department proof of insurance coverage as required by 25 Pa. Code §§75.331-.336.

BB. The Department provided to Raymark Industries Notices of Violations in 1986 and 1987 advising Raymark Industries that it had failed to meet its bonding and insurance responsibilities.

CC. To date, Raymark Industries has not provided any bond or proof of insurance to the Department.

The July 31, 1989 Order

DD. On July 31, 1989, the Department issued an order to Raymark Industries and Raymark Corporation directing Raymark Industries to, among other things, 1) submit a plan for closure of the landfill in accordance with the requirements of 25 Pa. Code §75.264; 2) file a bond; 3) file proof of insurance; and 4) submit a plan and implementation schedule for removal of the accumulated baghouse dust.

Raymark's Response to the Order

EE. To date, Raymark Industries has not submitted a closure plan as required by the order.

FF. To date, Raymark Industries has not filed a bond as required by the order.

GG. To date, Raymark Industries has not filed any proof of insurance as

required by the order.

HH. On November 8, 1989, Raymark Industries' attorney sent to the Department a letter regarding a plan for removal of the accumulated baghouse dust. The November 8 letter stated that Raymark Industries would, by February 1, 1990, submit to the Department a "plan for the management of the material stored at the landfill and any new material generated by the baghouse collectors."

II. To date, Raymark Industries has failed to submit the plan described in the November 8 letter.

JJ. Raymark Industries and/or Raymark Friction continue to generate baghouse dust at the Manheim facility.

KK. Some of the bags of baghouse dust at the Manheim facility have been punctured or torn, thereby releasing or causing the potential for release of hazardous waste contained within the bags into the environment.

Raytech's Responsibility for Raymark Industries' Obligations.

LL. Raytech is legally responsible for the obligations of Raymark Industries arising out of its operations and activities at the Manheim facility.

MM. At the Manheim facility and elsewhere, Raymark Industries engaged in the manufacture of various products containing asbestos. As of 1982, Raymark Industries faced thousands of claims for personal injuries arising out of Raymark Industries' manufacture of products containing asbestos.

NN. Raymark Industries and related entities engaged in a series of corporate transactions in the period 1982 through 1988 that had the purpose and effect of separating Raymark Industries and its asbestos-related liabilities from valuable assets formerly owned by Raymark Industries and now owned by Raytech. The purpose of the transactions was to allow Raymark Industries and

Raytech to escape or minimize the liabilities arising out of the manufacture of products containing asbestos, and to insulate Raytech from Raymark Industries's liabilities. Raymark Industries, Raytech and related entities entered into these transactions to escape liability.

00. In December 1988, in Schmoll v. ACandS, Inc., 703 F.Supp. 868 (D. Or. 1988) the United States District Court for the District of Oregon found that the corporate transactions described above were designed to avoid liabilities arising out of the manufacture of products containing asbestos and to insulate Raytech from Raymark Industries' liabilities. The District Court found that "Raytech is a successor in liability to Raymark Industries" in connection with the manufacture of products containing asbestos and that Raytech was therefore liable for asbestos-related claims against Raymark Industries.

PP. On July 31, 1989, when the Department issued the Order, the Department was not aware of the existence of Raytech or its relationship to Raymark Industries.

QQ. After issuing the July 31, 1989 order, the Department became aware of the facts set forth in Paragraphs MM--00 above, establishing that companies other than Raymark Industries, including but not necessarily limited to Raytech, are legally responsible for obligations arising out of Raymark Industries' operation of the Manheim facility.

RR. Raymark Industries' actions described in Paragraphs I through KK above constitute unlawful conduct by Raymark Industries pursuant to Sections 302(a), 302(b) 403(b)(9), 501(a), and 610(1), (2), (4), and (9) of the SWMA, 35 P.S. §§6018.302(a), 6018.302(b), 6018.403(b)(9), 6018.501(a), and 6018.610(1), (2), (4), and (9), and Sections 401 and 611 of the CSL, 35 P.S. §§691.401 and 691.611; constitute a public nuisance pursuant to Section 601 of the SWMA, 35

P.S. §6018.601 and Section 307(c) of the CSL, 35 P.S. §691.307(c); and subject Raymark to civil penalty liability under Section 605 of the SWMA, 35 P.S. §6018.605 and Section 605 of the Clean Streams Law, 35 P.S. §691.605.

NOW THEREFORE, pursuant to Sections 104 and 602 of the SWMA, 35 P.S. §§6018.104, and 6018.602; Sections 5, 316, and 610 of CSL, 35 P.S. §§691.5, 691.316, and 691.610; Section 1917-A of the Administrative Code, 71 P.S. 510-17, it is hereby ORDERED that Raymark Industries, Raytech, Raymark Corporation and Raymark Friction shall comply with the following:

1. Within thirty (30) days of the date of this order, Raymark Industries, Raytech and Raymark Corporation (hereinafter collectively referred to as "Raymark") shall submit to the Department for approval a closure/post-closure plan for the Manheim landfill. Said plan shall provide for closure in a manner consistent with the requirements of 25 Pa. Code §75.264(o) and all other applicable permits, rules, regulations and statutes.

a. If the Department determines that the closure/post-closure plan submitted by Raymark requires revisions or that evaluation of the plan requires submission of additional information the Department shall so inform Raymark and Raymark shall submit any such additional information or revisions within thirty (30) days of receiving notice from the Department.

b. The closure plan shall include a schedule for implementation.

c. Raymark shall initiate closure of the Manheim landfill within fifteen (15) days of the department's approval of a closure/post-closure plan.

2. Within thirty (30) days of the date of this order, Raymark shall file with the Department a bond, in a minimum amount of \$750,000, on a form prepared by the Department or otherwise acceptable to the Department. Upon

submission of the closure plan required by Paragraph 1 above, Raymark shall recalculate the appropriate bond amount (so as to reflect the closure plan's estimate of the costs of closure and post-closure) and submit a bond in that amount within 30 days of submission of the closure plan.

3. Within thirty (30) days of the date of this order, Raymark shall submit to the Department certification of insurance coverage pursuant to 25 Pa. Code §§75.331-.336 until the effective date of closure certification.

4. Within thirty (30) days of the date of this order, Raymark and Raymark Friction shall submit to the Department a plan for 1) the lawful removal of all accumulated baghouse dust present at the Manheim facility. The plan shall provide for the removal of the accumulated dust within thirty days of the Department's approval of the plan and 2) removal of baghouse dust that will be generated at the Manheim facility in the future.

5. Raymark shall certify to the Department, in writing, its compliance with this Order and each part thereof within five (5) days after completion of the work required to implement each such part.

6. The Department specifically reserves all rights to institute any administrative, civil, or criminal action, at law or in equity, including, but not limited to, the assessment of civil penalties, and the issuance of Orders; to abate, prevent harm or threat of harm to the environment or the public health and safety, resulting from the violations specified herein or any other violations of statute, rules or regulations, permit or order.

7. Unless and until the Department gives written notice to the contrary, all notices, requests, reports, penalties, or other correspondence required to be submitted by Raymark or Raymark Friction pursuant to the ORDER shall be

addressed as follows:

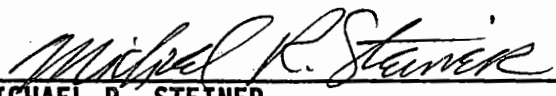
Copy
Regional Solid Waste Manager
Bureau of Waste Management
Harrisburg Regional Office
One Ararat Boulevard
Harrisburg, PA 17110

8. This order supersedes the Department's July 31, 1989 order to Raymark Industries and Raymark Corporation.

9. Any substantial failure of Raymark or Raytech to comply with this order constitutes failure to comply with an "enforcement action" for purposes of §1301 of the HSCA, 35 P.S. §6020.1301.

This action of the Department may be appealable to the Environmental Hearing Board, 101 South Second Street, Suites 3-5, Harrisburg, PA 17101 (717-787-3483) by any aggrieved person pursuant to Section 4 of the Environmental Hearing Board Act, 35 P.S. Section 7514; and the Administrative Agency Law, 2 Pa. C.S., Chapter 5A. Appeals must be filed with the Environmental Hearing Board within 30 days of receipt of written notice of this action unless the appropriate statute provides a different time period. Copies of the appeal form and the regulations governing practice and procedure before the Board may be obtained from the Board. This paragraph does not, in and of itself, create any right of appeal beyond that permitted by applicable statutes and decisional law.

FOR THE DEPARTMENT OF ENVIRONMENTAL RESOURCES


MICHAEL R. STEINER
Assistant Regional Director
Harrisburg Regional Office

MAR 15 1991

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